

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

ROGER ALEXANDER GODOY ESTRADA,	)	
	)	
Petitioner,	)	Case No. 1:25-cv-506
	)	
v.	)	PETITION FOR WRIT OF
	)	HABEAS CORPUS UNDER
	)	28 U.S.C. § 2241
	)	
CHRISTOPHER BRACKETT, Warden, Strafford	)	
County Department of Corrections	)	
PATRICIA HYDE, Field Office Director,	)	
MICHAEL KROL, HSI New England Special	)	
Agent in Charge	)	
TODD LYONS, Acting Director U.S.	)	
Immigrations and Customs Enforcement,	)	
KRISTI L NOEM, U.S. Secretary	)	
of Homeland Security,	)	
and PAMELA BONDI, U.S. Attorney General	)	
	)	ORAL ARGUMENT
Respondents.	)	REQUESTED
	)	

INTRODUCTION

1. Petitioner Roger Alexander GODOY-ESTRADA (“Petitioner”) is a national and citizen of Honduras, born on [REDACTED] who resided in Chelsea, Massachusetts prior to his detention. Petitioner entered the United States in June 2016 at age 17, escaping violence in Honduras. On information and belief, Petitioner was arrested on or about December 4, 2025 after appearing in court to pay a fine related to a traffic violation (driving without a license). Immediately following the state-court matter, Petitioner was seized by U.S. Immigration and Customs Enforcement (“ICE”) and/or other federal agents acting on ICE’s behalf. Petitioner is currently being held in ICE’s custody in the District of New Hampshire at the Strafford County Department of Corrections in Dover, New Hampshire.

2. Accordingly, to vindicate Petitioner's constitutional rights, this Court should grant the instant petition for a Writ of *Habeas Corpus*. This petition is filed pursuant to 28 U.S.C. § 2241 to challenge his ongoing unlawful civil immigration detention and to prevent his transfer from the District of New Hampshire before this Court can review his claims.
3. Petitioner asks this Court to find that he was unlawfully detained and order his release.
4. **Petitioner has an approved Special Immigrant Juvenile Status (SIJS) I-360 petition, which was approved in March 2017 after a full interview before U.S. Citizenship & Immigration Services (USCIS). Petitioner originally entered the United States as a minor fleeing violence and family instability in Honduras. Petitioner's SIJS petition was approved, and he was instructed to pursue education and English studies to improve his future prospects. Although SIJS approval renders Petitioner eligible to adjust status when his priority date becomes current, Petitioner has remained in procedural limbo for years because no Notice to Appear (NTA) was ever filed with the Executive Office for Immigration Review (EOIR), thus precluding his ability to adjust his status, either affirmatively or defensively. Petitioner later married (2018) and now has a seven-year-old U.S. citizen child. His approved I-360 predates his marriage, preserving his eligibility to adjust status through SIJS if jurisdiction is established. Nothing in Petitioner's history makes him a danger or flight risk, and he has no criminal convictions.**
5. Petitioner is present in the United States, and, on information and belief, the Department of Homeland Security ("DHS") has alleged or will allege that Petitioner was not previously admitted or paroled into the United States.

6. Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(1), including because Petitioner does not meet the criteria for Expedited Removal. *See Make the Road New York v. Noem*, No. 25-190, 2025 WL 2494908, at *23 (D.D.C. Aug. 29, 2025).
7. Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(2), including because, as a person already present in the United States, Petitioner is not presently “seeking admission” to the United States. *See Aguiriano v. Romero v. Hyde*, No. 25-11631, 2025 WL 2403827, at *1, 8-13 (D. Mass. Aug. 19, 2025).
8. On information and belief, Petitioner was not, at the time of arrest, paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A), and therefore Petitioner could not “be returned” under that provision to mandatory custody under 8 U.S.C. § 1225(b) or any other form of custody. Petitioner is not subject to mandatory detention under § 1225 for this reason as well.
9. Instead, as a person arrested inside the United States and held in civil immigration detention, Petitioner is subject to detention, if at all, pursuant to 8 U.S.C. § 1226. *See Aguiriano*, 2025 WL 2403827, at *1, 8-13 (collecting cases).
10. Petitioner is not lawfully subject to mandatory detention under 8 U.S.C. § 1226(c), including because he has not been convicted of any crime that triggers such detention. *See Demore v. Kim*, 538 U.S. 510, 513-14, 531 (2003) (allowing mandatory detention under § 1226(c) for brief detention of persons convicted of certain crimes and who concede removability).
11. Accordingly, Petitioner is subject to detention, if at all, under 8 U.S.C. § 1226(a).

12. As a person detained under 8 U.S.C. § 1226(a), Petitioner must, upon his request, receive a custody redetermination hearing (colloquially called a “bond hearing”) with strong procedural protections. *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021); *Doe v. Tompkins*, 11 F.4th 1, 2 (1st Cir. 2021); *Brito v. Garland*, 22 F.4th 240, 256-57 (1st Cir. 2021) (affirming class-wide declaratory judgment); 8 C.F.R. 236.1(d) & 1003.19(a)-(f).
13. Petitioner requests such a bond hearing.
14. However, on September 5, 2025, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals issued a decision which purports to require the Immigration Court to unlawfully deny a bond hearing to all persons such as Petitioner.¹
15. The responsible administrative agency has therefore predetermined that Petitioner will be denied a bond hearing.
16. Petitioner is being irreparably harmed by his ongoing unlawful detention without a bond hearing. *See Aguiriano*, 2025 WL 2403827, at *6-8 (no exhaustion required because “[o]bviously, the loss of liberty is a . . . severe form of irreparable injury” (internal quotation marks omitted)); *Flores Powell v. Chadbourne*, 677 F. Supp. 2d 455, 463 (D. Mass. 2010) (declining to require administrative exhaustion, including because “[a] loss of liberty may be an irreparable harm”); *cf. Brito v. Garland*, 22 F.4th 240, 256 (1st Cir. 2021) (citing *Bois v. Marsh*, 801 F.2d 462 468 (D.C. Cir. 1986), for proposition that “[e]xhaustion might not be required if [the petitioner] were challenging her incarceration . . . or the ongoing deprivation of some other liberty interest”).

¹ The BIA’s reversal and newly revised interpretation of the statute are not entitled to any deference. *See Loper Bright Ent. v. Raimondo*, 603 U.S. 369, 412-13 (2024).

17. The Immigration Court lacks jurisdiction to adjudicate any constitutional claims raised by Petitioner, and any attempt to raise such claims would be futile. *See Flores-Powell*, 677 F. Supp. 2d at 463 (holding “exhaustion is excused by the BIA’s lack of authority to adjudicate constitutional questions and its prior interpretation” of the relevant statute).
18. There is no statutory requirement for Petitioner to exhaust administrative remedies. *See Gomes v. Hyde*, No. 25-11571, 2025 WL 1869299, at *4 (D. Mass. July 7, 2025) (“[E]xhaustion is not required by statute in this context.”).
19. Accordingly, there is no requirement for Petitioner to further exhaust administrative remedies before pursuing this Petition. *See Portela-Gonzalez v. Sec’y of the Navy*, 109 F.3d 74, (1st Cir. 1997) (explaining that, where statutory exhaustion is not required, administrative exhaustion not required in situations of irreparable harm, futility, or predetermined outcome).

JURISDICTION AND VENUE

20. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question).
21. Venue is proper in the District of New Hampshire because Petitioner is currently detained at the Strafford County Department of Corrections, 266 County Farm Rd, Dover, NH 03820, which lies within this District. Respondent Christopher Brackett, the Superintendent of Strafford County DOC, is Petitioner’s immediate custodian.

PARTIES

22. Petitioner Roger Alexander Godoy-Estrada (A Number ) is a national and citizen of Honduras currently detained at the Strafford County Department of

Corrections, 266 County Farm Road, Dover, NH 03820. Prior to detention, he resided in Chelsea, Massachusetts with his wife and their U.S. citizen 7-year-old child.

23. Respondent Christopher Brackett is the Superintendent/Warden of the Strafford County Department of Corrections and is Petitioner's immediate custodian.
24. Respondent Patricia Hyde is the Field Office Director for ICE ERO Boston, responsible for the custody and detention decisions for individuals detained within the District.
25. Respondent Michael Krol is the New England Special Agent in Charge for Homeland Security Investigations for U.S. Immigration and Customs Enforcement.
26. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement.
27. Respondent Kristi Noem is the Secretary of the Department of Homeland Security and Respondent Pamela Bondi is the U.S. Attorney General.
28. All respondents are sued in their official capacities, as they are physical/legal custodians with the authority to grant Petitioner a bond hearing before EOIR or release him outright.

FACTUAL BACKGROUND

29. Petitioner is a 27-year-old Honduran national who entered the United States in June 2016 at age 17, fleeing violence, instability, and lack of parental protection. After arriving in Massachusetts, he lived with an uncle who possessed Temporary Protected Status and who served as his caretaker and support system.
30. Petitioner was placed into SIJS proceedings as a minor and attended a USCIS interview in March 2017, during which the adjudicator questioned him regarding school attendance and English studies. USCIS approved his I-360, formally recognizing that reunification

with one or both parents was not viable due to abandonment, neglect, or similar grounds under state juvenile law.

31. Although Petitioner's SIJS petition was approved, DHS never filed a NTA with EOIR, leaving him in procedural "limbo" and preventing him from adjusting status. He could not file an I-485 with USCIS because his priority date was not yet current, and he could not file defensively because no removal proceedings were ever initiated. This was solely due to DHS's failure to file the NTA.
32. Petitioner married in 2018 and now has a U.S. citizen child (age 7). His approved I-360 predates his marriage, preserving his SIJS-based eligibility for adjustment of status. He has no criminal history other than a minor driving-without-license matter.
33. On or about December 4, 2025, Petitioner voluntarily appeared in court to pay a traffic fine related to driving without a license. Upon concluding the hearing, ICE officers immediately seized him. According to his wife, ICE officers used extreme and unnecessary force, throwing Petitioner to the ground, causing him to hit his head, and leaving him with numerous bruises. Petitioner was handcuffed and transported without medical evaluation.
34. On information and belief, Petitioner requested medical attention for his head injury and bruising, but no timely treatment was provided. His wife reports visible injuries and has expressed concern for his physical safety. Petitioner remains detained without meaningful access to counsel or the ability to document the harm inflicted during his arrest.
35. Petitioner was transferred to the Strafford County Department of Corrections in Dover, New Hampshire, where he remains detained. Despite his eligibility to adjust status, DHS

continues to detain him without having ever served or filed an NTA, leaving him unable to pursue lawful permanent residency.

36. Petitioner is not a danger to the community. He has lived continuously in Massachusetts since 2016, is the father of a U.S. citizen child, has deep community ties, and possesses an approved SIJS petition. He has no disqualifying criminal convictions and has always complied with legal requirements.

37. ICE's seizure of Petitioner, using excessive force, without a warrant, without a NTA, and without initiating removal proceedings, is unlawful. Detention without a charging document violates both statutory and constitutional due process protections. Petitioner has been deprived of any forum to contest removability or to pursue relief.

38. Notwithstanding these facts, DHS is holding Petitioner without justification and without providing him a bond hearing or any meaningful process. ICE may attempt to transfer him out of New Hampshire, which would deprive this Court of jurisdiction and would further exacerbate the unlawful nature of his detention.

CLAIMS FOR RELIEF
COUNT ONE

Violation of 8 U.S.C. 1226(a) and Associated Regulations

39. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

40. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing.

See 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

41. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

42. Petitioner's continuing detention is therefore unlawful.

COUNT TWO

**Violation of Fifth Amendment Right to Due Process
(Failure to Provide Bond Hearing Under 8 U.S.C. § 1226(a))**

43. Because Petitioner is a person arrested inside the United States and is subject to detention, if at all, under 8 U.S.C. § 1226(a), the Due Process Clause of the Fifth Amendment to the United States Constitution requires that Petitioner receive a bond hearing with strong procedural protections. *See Hernandez-Lara*, 10 F.4th at 41; *Doe*, 11 F.4th at 2; *Brito*, 22 F.4th at 256-57. *See also, Jimenez v. FCI Berlin, Warden*, No. 25-CV-326-LM-AJ, 2025 WL 2639390 (D.N.H. Sept. 8, 2025).
44. Petitioner has not been, and will not be, provided with a bond hearing as required by law.
45. Petitioner's continuing detention is therefore unlawful.

COUNT THREE

**Violation of Fifth Amendment Right to Due Process
(Failure to Provide an Individualized Hearing for Domestic Civil Detention)**

46. "In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987).
47. The Fifth Amendment's Due Process Clause specifically forbids the Government to "deprive[]" any "person . . . of . . . liberty . . . without due process of law." U.S. CONST. amend. V.
48. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *see Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) ("[A]liens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law"); *cf. Department of Homeland Security v.*

Thuraissigiam, 591 U.S. 103, 139-40 (2020) (holding noncitizens due process rights were limited where the person was not residing in the United States, but rather had been arrested 25 yards into U.S. territory, apparently moments after he crossed the border while he was still “on the threshold”).

49. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by the Due Process Clause.

Zadvydas, 533 U.S. 678 at (2001)

50. The Supreme Court has thus “repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection,” including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979)

(collecting cases); *see also Salerno*, 481 U.S. at 755 (requiring individualized hearing and strong procedural protections for detention of people charged with federal crimes); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (same for civil commitment for mental illness); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (same for commitment of sex offenders).

51. Petitioner was arrested inside the United States and is being held without being provided any individualized detention hearing.

52. Petitioner’s continuing detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

COUNT FOUR
Violation of Fifth Amendment Right to Due Process
(Substantive Due Process)

53. Because Petitioner is not being provided a bond hearing, the government is not taking any steps to effectuate its substantive obligation to ensure that immigration detention bears a “reasonable relation” to the purposes of immigration detention (*i.e.*, the prevention of flight and danger to the community during the pendency of removal proceedings) and is not impermissibly punitive. *See Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 532-33 (Kennedy, J., concurring).
54. Petitioner’s detention is therefore unlawful, regardless of which statute might apply to purportedly authorize such detention.

COUNT FIVE
Unlawful Detention Despite SIJS Based Eligibility for Adjustment of Status, Absence of
Any Charging Document, and Punitive Excessive Force
(Substantive Due Process)

55. Petitioner has an approved Special Immigrant Juvenile (SIJS) I-360 petition, approved in 2017, rendering him statutorily eligible to adjust status to lawful permanent residency once his priority date is current or jurisdiction is established. His approved I-360 predates his 2018 marriage, preserving SIJS-based eligibility.
56. DHS has never filed or served an NTA, depriving Petitioner of the ability to file for adjustment of status either with USCIS or EOIR. Petitioner is thus detained without any pending removal proceedings, a prerequisite for immigration detention to serve any rational purpose.
57. Detention of an adjustment-eligible individual without initiating proceedings, without a charging document, and without permitting him to pursue lawful permanent residency

serves no legitimate governmental interest. Such detention is arbitrary, punitive, and violates substantive due process. *See Zadvydas*, 533 U.S. at 690.

58. Further, ICE agents' use of excessive force during Petitioner's arrest, including throwing him to the ground, causing a head injury and bruising, constitutes a separate violation of the Fifth Amendment. Immigration detention is civil, not punitive. Physical violence, coupled with failure to provide medical care, renders detention unconstitutional. See *Kingsley v. Hendrickson*, 576 U.S. 389 (2015).

59. Because ICE has neither (1) initiated removal proceedings, nor (2) allowed Petitioner to pursue available relief, nor (3) provided constitutionally adequate treatment while detained, the continued detention violates both substantive and procedural due process.

PRAYERS FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner shall not be transferred outside this District;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (4) Declare that Petitioner's detention is unlawful.
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, or, in the alternative, provide Petitioner with a bond hearing and order Petitioner's release on conditions the Court deems just and proper.
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted,
ROGER ALEXANDER GODOY ESTRADA,

By and through counsel,

Dated: December 8, 2025

/s/ Ronald L. Abramson

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CERTIFICATE OF SERVICE

I, Ronald L. Abramson, hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants, with an immediate courtesy copy being sent via email to Assistant United States Attorney Raphael Katz.

Dated: December 8, 2025

/s/ Ronald L. Abramson

Ronald L. Abramson

* The undersigned is serving as pro bono local counsel through the Habeas Project and will soon file a Motion for Pro Hac Vice admission on behalf of Attorney Vijay.